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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,044	01/25/2007	Bill Cope	0090227	4339
9355 7590 07/08/2010 JACQUELINE E. HARTT, PH.D. Allen Dyer Doppelt Milbrath & Gilchrist, P.A. 255 S. Orange Ave., Suite 1401 P.O. Box 3791 ORLANDO, FL 32801-3791				
EXAMINER				
TRAN, QUOC A				
ART UNIT		PAPER NUMBER		
2176				
MAIL DATE		DELIVERY MODE		
07/08/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,044

Applicant(s)

COPE, BILL

Examiner

QUOC A. TRAN

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1.6-17, 20, 22, 23, 25, 26 and 28-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1.6-15 and 28-30 is/are allowed.
- 6) ☒ Claim(s) 17, 20, 22, 23, and 25-26 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/562,044.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is a Final Office Action in responses to Applicant's amendments/remarks filed 04/28/2010. The current patent application claims foreign priority to 2003903306 filed **06/27/2003**.

- Claims 1, 6-17, 20, 22-23, 25-26 and 28-30 are pending.
- Claims 1, 12, 17, 23 and 28 are independent claims.
- Claims 2-5, 18-19, 21, 24 and 27 are cancelled.

In addition, the Examiner is hereby withdrawn the objection to claims 1-2, 4-5, 7-12, 14-15, 17, 19, 20-21 and 23-30 and the 112 rejection to claims 1-11, 15 and 17-27 set forth in the previous office action dated 10/28/2009, in light of applicant's amendments/remarks filed 04/28/2010.

Claim Objections

Claim 16 is objected to because of the following:

Claim 16 (currently amended); however the changes relative to the last entered of claim 16 (dated 12/23/2005) is inconsistent with the currently amended claim 16 [see 37 CFR 1.121 and MPEP § 714.03- The amendment must include markings showing ***the changes relative*** to the last entered amendment]. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17, 20, 22, 23, 25 and 26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim(s) 17, 20 and 22:

In summary, Claim 17 recites a "**system**" for translating first schema into a second schema includes "**ontology deconstruction and reconstructing transfer mechanism**" to automatically create an interlanguage DTD. The recited "*ontology deconstruction and reconstructing transfer mechanism*" are illustrated in Figure 4, and the Specification expressly states, "deconstruction and reconstruction transfer mechanism can include providing an apparatus able to: machine-read tags automatically; interpret the data format which has been marked up by the tags and detect its inherent structures or semantics; and transfer this data into the second schema via automatic interlanguage DTD definition of the first schema into the second schema.... [@ Page 8 Lines 10-20]. As recognized by the Examiner, in this case the ontology deconstruction and reconstructing transfer mechanism, which can be implemented in **software OR hardware**. Thus, the "*ontology deconstruction and reconstructing transfer mechanism*", are computer software *per se*.

Computer software is not a process, a machine, a manufacture or a composition of matter, as set forth in 35 U.S.C. 101. Accordingly, Claim 17 does not recited statutory subject matter.

Claims 20 and 22 merely recite additional computer software components and/or functionality of the *ontology deconstruction and reconstructing transfer mechanism*." Thus, none of Claims 17, 20 and 22, recites statutory subject matter.

Claim(s) 23, 25, 26:

Claim 23 recites a "**computer readable medium**" having a program encoded thereon for translating first schema into a second schema...be the transfer mechanism. The Examiner notes the disclosure of the present invention expressly states, "A computer readable media having a program ... to allow an automatic interlanguage definition of the first schema and translation into the second schema by **the transfer mechanism**....." see. As such, Claim 23 is drawn to a form of energy. Energy is not one of the four categories of invention and therefore this claim(s) is/are not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefor not a composition of matter. Accordingly, Claim 23 fails to recite statutory subject matter, as defined in 35 U.S.C. 101.

Claims 25-26 merely recite additional "*computer readable medium*" having a program encoded thereon for translating first schema into a second schema...be the transfer mechanism. Thus, none of Claims 23 and 25-26 recites statutory subject matter

Allowable Subject Matter

Claims 1, 6-15 and 28-30 are allowed.

Claim 16 (objections) and 17, 20, 22, 23, 25 and 26 (101 rejections) would be allowable, if rewritten to overcome, the 35 USC 101, and rewritten to overcome the objections to claim 16 set forth in this Office action.

Response to Arguments

Applicant's remarks filed 04/28/2010 have been fully considered but they are not persuasive. The reasons are set forth in the Office Action cited above and further view of the following:

Applicant argued, that claims 17, 20, 22, 23 and 25-26 were improperly rejected under 35 USC 101 as being non-statutory subject matter (See the remarks @ Page 14 the Last Para through Page 15 the first and second para).

The examiner disagrees.

As discusses in the previous Office Action dated 10/28/2009 and the current rejection as cited above, claims 17, 20 and 22 merely recite computer software components and/or functionality of the *ontology deconstruction and reconstructing*

transfer mechanism." Thus, none of Claims 17, 20 and 22, recites statutory subject matter (see above rejection for details).

In addition, claims 23, 25-26 merely recite "**computer readable medium**" having a program encoded thereon for translating first schema into a second schema...be the ***transfer mechanism (e.g., propagate media/energy)***. Thus, none of Claims 23 and 25-26 recites statutory subject matter (see above rejection for details).

Therefore the Examiner maintains the rejection of claims 17, 20, 22, 23 and 25-26 and should be sustained.

Conclusion

Accordingly **THIS ACTION IS MADE FINAL** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quoc A. Tran whose telephone number is 571-272-8664. The examiner can normally be reached on Mon through Fri 8AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached on (571)272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Quoc A. Tran/
Examiner, Art Unit 2176

/DOUG HUTTON/
Supervisory Patent Examiner, Art Unit 2176